

§ 141.113

(exclusive of Sunday and holidays) after such merchandise is taken into Customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(d) *Merchandise entered for immediate transportation.* A notice of lien upon merchandise entered for immediate transportation shall be filed by the claimant with the port director at the destination.

(e) *Limitations on acceptance of notice of lien.* A notice of lien shall be rejected and returned with the reason for rejection noted thereon if it is filed after any of the following actions have been taken concerning the merchandise:

- (1) Release from Customs custody;
- (2) Forfeiture under any provision of law;
- (3) Sale as unclaimed or abandoned merchandise under section 491 or 559, Tariff Act of 1930, as amended (19 U.S.C. 1491 or 1559); or
- (4) Receipt and acceptance of a notice of abandonment to the Government under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1) or 1563(b)).

(f) *Forfeited or abandoned merchandise.* The acceptance of a notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in Subpart D of part 127 and §§158.44 and 162.51 of this chapter.

(g) *Bond may be required.* When any doubt exists as to the validity of a lien filed with the port director, he may require a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, to hold him harmless from any liability which may result from withholding the release of the merchandise.

(h) *Satisfaction of lien.* The port director shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the port director shall hold the lien satisfied upon the payment of an amount computed upon the basis of the official Customs report of quantity and weight. In all other cases, proof that the lien has been satisfied or discharged shall con-

sist of a written release or receipt signed by the claimant and filed with the port director, showing payment of the claim in full.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-114, 39 FR 32023, Apr. 3, 1974; T.D. 84-213, 49 FR 41184, Oct. 19, 1984; T.D. 88-7, 53 FR 4962, Feb. 19, 1988; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

§ 141.113 Recall of merchandise released from Customs custody.

(a) *Merchandise not legally marked.* Certain merchandise is required to be marked or labeled pursuant to the following provisions:

- (1) Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), pertaining to marking with country of origin;
- (2) Textile Fiber Products Identification Act (15 U.S.C. 70);
- (3) Wool Products Labeling Act (15 U.S.C. 68);
- (4) Fur Products Labeling Act (15 U.S.C. 69); and
- (5) Chapter 91, Additional U.S. Note 4, Harmonized Tariff Schedule of the United States (HTSUS), pertaining to special marking for watch and clock movements, cases, and dials.

If such merchandise is found after release to be not legally marked, the port director may demand its return to Customs custody for the purpose of requiring it to be properly marked or labeled. The demand for marking or labeling shall be made not later than 30 days after the date of entry in the case of merchandise examined in public stores, and places of arrival, such as docks, wharfs, or piers. Demand may be made no later than 30 days after the date of examination in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the port director.

(b) *Textiles and textile products.* For purposes of determining whether the country of origin of textiles and textile products subject to the provisions of §12.130 of this chapter has been accurately represented to Customs, the release from Customs custody of any such textile or textile product shall be deemed conditional during the 180-day period following the date of release. If the port director finds during the conditional release period that a textile or

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textile product is not entitled to admission into the commerce of the United States because the country of origin of the textile or textile product was not accurately represented to Customs, he shall promptly demand its return to Customs custody. Notwithstanding the provisions of paragraph (h) of this section and §113.62(l)(1) of this chapter, a failure to comply with a demand for return to Customs custody made under this paragraph shall result in the assessment of liquidated damages equal to the value of the merchandise involved.

(c) *Other merchandise not entitled to admission.* If at any time after entry the port director finds that any merchandise contained in an importation is not entitled to admission into the commerce of the United States for any reason not enumerated in paragraph (a) or (b) of this section, he shall promptly demand the return to Customs custody of any such merchandise which has been released.

(d) *Request for samples or additional examination packages not complied with by importer.* If the importer has not promptly complied with a request for samples or additional examination packages made by the port director pursuant to §151.11 of this chapter, the port director may demand the return of the necessary merchandise to Customs custody.

(e) *Demand to importer of record or actual owner.* A demand for the return of merchandise to Customs custody shall be made on the importer of record, except that it shall be made on the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with §141.20 before the date of the demand.

(f) *Form of demand.* A demand for the return of merchandise to Customs custody shall be made on Customs Form 4647 or other appropriate form, or by letter. One copy, with the date of mailing or delivery noted thereon, shall be retained by the port director and made part of the entry record.

(g) *Time limitation.* A demand for the return of merchandise to Customs custody shall not be made after the liquidation of the entry covering such merchandise has become final.

(h) *Demand not complied with.* When the demand of the port director for return of merchandise to Customs custody is not complied with, liquidated damages shall be assessed, except in the case of merchandise entered under chapter 98, subchapter XIII, HTSUS (19 U.S.C. 1202), in an amount equal to the value of the merchandise not returned or three times the value of the merchandise not returned if the merchandise is restricted or prohibited merchandise or alcoholic beverages, as determined at the time of entry. The amount of liquidated damages to be assessed on merchandise entered under chapter 98, subchapter XIII, HTSUS is set forth in §10.39(d)(3) of this chapter.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-227, 39 FR 32023, Sept. 4, 1974; T.D. 89-1, 53 FR 51262, Dec. 21, 1988; T.D. 92-84, 57 FR 40607, Sept. 4, 1992; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 94-95, 59 FR 61800, Dec. 2, 1994; T.D. 99-64, 64 FR 43266, Aug. 10, 1999; T.D. 01-26, 66 FR 16854, Mar. 28, 2001]

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